

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 4

January 26, 2006

SUBJECT: SEIZURES OF FIREARMS AT DOMESTIC VIOLENCE INCIDENTS -
REVISED, ACTIVATION OF RECEIPT AND NOTICE OF RIGHTS FOR
CONFISCATED FIREARMS/OTHER DEADLY WEAPONS, FORM 10.10.5
AND DEACTIVATION OF WEAPONS CONFISCATION RECEIPT, FORM
10.10.1

PURPOSE: At the scene of a domestic violence incident involving the threat to human life or physical assault, officers may temporarily take into custody any firearm in plain sight or discovered pursuant to consensual search as outlined in Penal Code (PC) Section 12028.5. On January 1, 2003, PC Section 12028.5 was revised expanding the maximum holding period of firearms seized from 72 hours to five business days, and changing the time period to file a petition with the court to determine if firearms should be returned, from 30 days to 60 days. In addition, on January 1, 2005, PC Section 12021.3 was implemented requiring any person claiming title to any firearm in custody of a court or law enforcement agency and who wishes to have the firearm returned to submit a Law Enforcement Gun Release Application to the California Department of Justice (DOJ).

This Order revises Special Order No. 15, 1985, *Seizure of Firearms at Domestic Violence Incidents*, by incorporating the above mentioned revisions and activating the Receipt and Notice of Rights for Confiscated Firearms/Other Deadly Weapons, Form 10.10.5, and deactivating Weapons Confiscation Receipt, Form 10.10.1.

PROCEDURE:

I. RECEIPT AND NOTICE OF RIGHTS FOR CONFISCATED FIREARMS/ OTHER DEADLY WEAPONS, FORM 10.10.5 - ACTIVATED. The Receipt and Notice of Rights for Confiscated Firearms/ Other Deadly Weapons, Form 10.10.5, is activated and replaces the Weapons Confiscation Receipt, Form 10.10.1.

A. Use of Form. This form is used to document the confiscation of firearms or other deadly weapons from individuals during domestic violence incidents and from individuals who are detained or apprehended for examination of their mental condition and is a danger to others, themselves or gravely disabled as provided in Section 5150 of the Welfare and Institutions Code (WIC).

B. Completion. Completion of this form is self-explanatory and shall be completed by officers

confiscating the firearms or deadly weapons.

C. Distribution.

- 1 - Original, attached as a page of any related reports.
- 1 - Duplicate, to individual from whom the firearm or deadly weapon was taken.
- 1 - Duplicate, to Mental Evaluation Unit (if applicable to 5150 WIC criteria), Detective Support Division.

3 - TOTAL

II. WEAPONS CONFISCATION RECEIPT - DEACTIVATED. The Weapons Confiscation Receipt, Form 10.10.1, is deactivated.

III. SEIZURE OF FIREARMS AT THE SCENE OF A DOMESTIC VIOLENCE INCIDENT. Penal Code Section 12028.5 provides that firearms seized at the scene of a domestic dispute shall be made available for release 48 hours after the seizure or as soon thereafter as possible, but no longer than five business days after the seizure. In no event shall a firearm be held less than 48 hours.

Note: Although a firearm may be available for release per PC Section 12028.5, it shall not be released to the legal owner until the DOJ background check has been completed and the owner has been cleared for possession of the firearm per PC Section 12021.3.

IV. INVESTIGATING OFFICER'S RESPONSIBILITIES. In addition to the current procedures outlined in Department Manual Section 4/560.40, an investigating officer releasing a firearm seized at a domestic violence incident shall:

- * Make the firearm available for release no less than 48 hours, but no longer than five business days after the seizure;
- * Ensure the firearm is not restricted (e.g., assault weapon); and,
- * Ensure the individual (i.e., owner of the firearm) seeking the return of the firearm, completes and submits to the DOJ a Law Enforcement Gun Release Application.

Note: The DOJ is the only agency authorized by law to conduct the necessary background checks to determine if the owner is prohibited from possessing a firearm.

V. FILING A PETITION WITH THE COURT TO EXTEND A FIREARM HOLD.

Penal Code Section 12028.5 (f) allows 60 days to file a petition with the court to extend a firearm hold. However, when the investigating officer has reasonable cause to believe that the release of a firearm would likely endanger the victim of the assault or threat, the investigating officer shall, within five days of the seizure, initiate a petition in superior court to determine if the firearm should be returned. If necessary, the investigating officer may seek an extension to 90 days on the petition.

FORM AVAILABILITY: The Receipt and Notice of Rights for Confiscated Firearms/Other Deadly Weapons, Form 10.10.5, will be available for ordering from the Distribution Center, Department of General Services, in about 60 days. A copy of the form is attached for duplication and immediate use.

AMENDMENTS: This Order deletes Department Manual Section 5/10.10.1, amends Sections 4/560.35, 4/560.40, 4/561, and 4/565.20 and adds Section 5/10.10.5 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Detective Support Division, shall monitor compliance with this Order in accordance with Department Manual Section 0/080.30.

WILLIAM J. BRATTON
Chief of Police

Attachment

DISTRIBUTION "A"

RECEIPT AND NOTICE OF RIGHTS FOR CONFISCATED FIREARMS/OTHER DEADLY WEAPONS

- ☐ Pursuant to Welfare and Institutions Code section 8102, the firearms and/or other deadly weapons listed below were confiscated from you on _____ (Date). Upon release from _____ the professional person in charge of the facility, or his or her designee, shall notify you of the procedure for the return of your weapon(s). Health facility personnel shall also notify the Los Angeles Police Department, Mental Evaluation Unit, of your release.

Section 8102 of the Welfare and Institutions Code provides that whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

Mental Health Incidents – Notice of Rights

A report of the details surrounding the confiscation of these items may be given to the county prosecuting agency. The prosecuting agency must file a petition in the County Superior Court within 30 days from the date of release from the mental health facility, alleging that the return of these items would be likely to result in endangering you or others, or if the items must be returned to you by the law enforcement agency if you are not prohibited from possessing firearms. If the prosecuting agency does file such a petition, you have a right to a hearing on the question of whether returning the items would in fact, be likely to result in endangering you or others. A copy of the prosecuting agency's petition will be mailed to you at the address you provided to the law enforcement agency. If you wish to have a hearing you must notify the clerk of the County Superior Court within 30 days of the filing date of the prosecuting agency's petition. The clerk will then set a date and time for such a hearing and a notification will be mailed to you.

If you are detained under WIC 5150 and are subsequently involuntarily admitted to a mental health facility, you are prohibited from owning, possessing and controlling firearms for a period of five (5) years in California. If you currently own any firearms, you must contact the nearest law enforcement agency to surrender those firearms.

- ☐ Pursuant to Penal Code section 12028.5, the firearms and/or other deadly weapons listed below were confiscated from you on _____ (Date).

Domestic Violence Incidents – Notice of Rights

Unless the items confiscated from you are to be used as evidence in any criminal procedure, the firearm(s) shall be made available to you from the law enforcement agency 5 business days after the seizure or as soon thereafter as possible. If, within this time, the law enforcement agency believes the return of these items will likely result in endangering the victim or person reporting a domestic violence assault, you will be advised, and within 60 – 90 days of the seizure, a petition will be initiated in Superior Court to determine if these items should be returned.

- ☐ **Firearms Surrendered for Disposal:** I hereby relinquish to the Los Angeles Police Department my right, title, or interest in the below-described firearm(s)

(Signature of Person Relinquishing) _____ (Date).

List make, model, caliber, serial number and importer:

1. _____
2. _____
3. _____

The confiscated firearm and/or other deadly weapons may be available for release at: _____.

Any person who claims title to any firearm that is in the custody or control of law enforcement agency and who wants to have the firearm returned shall make application for a determination by the Department of Justice as to whether he or she is eligible to possess a firearm (PC 12021.3). Prior to the return of any firearm to its owner, the individual seeking the return of the firearm must submit a Law Enforcement Gun Release Application to the DOJ. The application is available at www.ag.ca.gov/firearms. It may take up to 30 days to process the application. If firearms are not claimed within 180 days of notification that the firearm is available for return, the law enforcement agency may charge a storage fee for firearms. This storage fee is: _____.

I acknowledge receipt of a copy of this notice.

Date

Signature of Person Notified

I, _____
(Officer's Name/Title) declare under penalty of perjury under the laws of the State of California, that I served the above named person with a copy of the above notice, and this declaration is executed on _____ (Date)
at _____ (City), California.

Signature of Officer Serving Notice

Serial No.

THIS RECEIPT DOES NOT CONSTITUTE RECOGNITION OF LEGAL TITLE TO ABOVE PROPERTY

- ☐ I recommend court petition for retention of firearms _____ (initials of officer)

Original – Law Enforcement Agency Copy – Person Notified

FOR INFORMATION REGARDING PROPERTY RELEASE, CONTACT THE DETECTIVE DIVISION INDICATED BY AN "X" BELOW, BETWEEN THE HOURS OF 7:30 a.m. AND 3:30 p.m., MONDAY THROUGH FRIDAY.

DETECTIVE DIVISIONS

| | | <u>PHONE NOS.</u> | <u>TDD NOS.</u> |
|--|---|-------------------|-----------------|
| <input type="checkbox"/> CENTRAL | 251 East 6 th Street, Los Angeles, 90014 | (213) 972-1200 | (213) 485-9819 |
| <input type="checkbox"/> DEVONSHIRE | 10250 Etiwanda Ave., Northridge, 91325 | (818) 832-0609 | (818) 832-0283 |
| <input type="checkbox"/> FOOTHILL | 12760 Osborne Street, Pacoima, 91331 | (818) 834-3115 | (818) 756-9034 |
| <input type="checkbox"/> HARBOR | 221 North Bayview Ave., Wilmington, 90744 | (310) 513-7133 | (310) 518-6387 |
| <input type="checkbox"/> HOLLENBECK | 1936 East 1st Street, Los Angeles, 90033 | (323) 526-3000 | (323) 485-9822 |
| <input type="checkbox"/> HOLLYWOOD | 1358 North Wilcox Ave., Los Angeles, 90028 | (213) 972-2967 | (213) 485-9899 |
| <input type="checkbox"/> MISSION | 11121 North Sepulveda Blvd Mission Hills, 91345 | (818) 838-9810 | (818) 837-9858 |
| <input type="checkbox"/> NEWTON | 3400 South Central Ave, Los Angeles, 90011 | (323) 846-5363 | (323) 846-6535 |
| <input type="checkbox"/> NO HOLLYWOOD | 11640 Burbank Blvd. North Hollywood, 91601 | (818) 623-4045 | (818) 756-9035 |
| <input type="checkbox"/> NORTHEAST | 3353 San Fernando Road, Los Angeles, 90065 | (213) 485-2566 | (213) 485-6407 |
| <input type="checkbox"/> PACIFIC | 12312 Culver Blvd, Los Angeles, 90066 | (310) 482-6313 | (310) 202-2800 |
| <input type="checkbox"/> RAMPART | 2710 West Temple Street, Los Angeles, 90026 | (213) 207-2000 | (213) 485-8359 |
| <input type="checkbox"/> 77 TH STREET | 7600 South Broadway, Los Angeles, 90003 | (213) 485-4175 | (213) 485-6409 |
| <input type="checkbox"/> SOUTHEAST | 145 West 108th Street, Los Angeles, 90061 | (213) 972-7813 | (213) 485-9934 |
| <input type="checkbox"/> SOUTHWEST | 1546 West Martin Luther King Bl, Los Angeles 90062 | (213) 485-6570 | (213) 485-1015 |
| <input type="checkbox"/> VAN NUYS | 6240 Sylmar Ave, Van Nuys, 91401 | (818) 756-8371 | (818) 785-6619 |
| <input type="checkbox"/> WEST LOS ANGELES | 1663 Butler Ave., West. Los Angeles, 90025 | (310) 444-1580 | (310) 575-8719 |
| <input type="checkbox"/> WEST VALLEY | 19020 Vanowen Street, Reseda, 91335 | (818) 374-7730 | (818) 705-1566 |
| <input type="checkbox"/> WILSHIRE | 4861 Venice Blvd , Los Angeles, 90019 | (213) 922-8205 | (213) 485-2112 |

NARCOTICS

- ☐ VALLEY BUREAU COMPLAINT TEAM – 6240 SYLMAR AVENUE, VAN NUYS, 91401 (818) 758-8360 (818) 785-6619
- ☐ ALL OTHER AREAS – 251 EAST 6TH STREET, ROOM 349, LOS ANGELES, 90014 (213) 972-2556 (877) 275-5273

SPECIAL INSTRUCTIONS

State law provides that a finder may claim found property if the owner does not come forward within 97 days after booking. If no claim is made by the owner or a finder within 97 days after booking, found property will be disposed of.